

(v) The Director, Advanced Research Projects Agency, through the DDR&E.

(vi) The Director, Defense Logistics Agency.

(vii) The Director, Defense Nuclear Agency, through the ATSD(AE).

(viii) The Director, Ballistic Missile Defense Organization.

(ix) The Director, On-Site Inspection Agency, through the ATSD(AE), to be exercised consistent with DoD Directive TS-5134.2.<sup>5</sup>

(x) The Director of Small and Disadvantaged Business Utilization.

(xi) The Director, Office of Economic Adjustment, through the ASD(ES).

(xii) The President, Defense Acquisition University.

(xiii) The Commandant, Defense Systems Management College.

(xiv) Such other organizations as may be established by the USD(A&T) within resources provided by the Secretary of Defense.

(3) Use existing facilities and services of the Department of Defense and other Federal Agencies, whenever practicable, to avoid duplication and to achieve an appropriate balance among modernization, readiness, sustainability, efficiency, and economy.

(b) The Secretaries of the Military Departments and the heads of other DoD Components shall consult the USD(A&T) before assigning an officer or employee to serve as a Program Executive Officer or a Program Manager, or reassigning an officer or employee so serving, for any program subject to review by the DAB.

(c) The Secretaries of the Military Departments and the heads of other DoD Components shall consult the USD(A&T) on program objectives memoranda and budget estimate submissions that reflect a significant change to any program subject to review by the DAB, before their submission to the OSD.

(d) The USD(A&T) shall work directly with the Service Acquisition Executives.

(e) Other OSD officials and heads of the DoD Components shall coordinate with the USD(A&T) on all matters related to authorities, responsibilities, and functions assigned in this part.

#### § 384.7 Authorities.

(a) The USD(A&T) is hereby granted the authority to direct the Secretaries of the Military Departments and heads of all other DoD Components on all matters of acquisition.

(b) The USD(A&T) shall decide upon the appropriate implementing actions to be taken as a result of DAB reviews, to include the establishment of specific exit criteria that must be satisfactorily demonstrated before an effort or program can progress to the next Milestone decision point. The USD(A&T)'s decisions shall be reflected in an Acquisition Decision Memorandum issued by the USD(A&T) for implementation by the heads of the DoD Components.

(c) The C, DoD, shall coordinate with the USD(A&T) prior to approving the transfer or reprogramming of funds into or from a program within the purview of the USD(A&T).

(d) The USD(A&T) may direct the C, DoD, to withhold the release of funds to an acquisition program when the USD(A&T) determines that such direction is necessary to ensure that the program meets the criteria established by DoD Directives for exiting the Milestone and all additional exit criteria for the program established by the Secretary of Defense, the Deputy Secretary of Defense, or the USD(A&T). The USD(A&T) may not delegate the authority granted by this subsection to anyone other than the PDUSD(A&T).

(e) The USD(A&T) shall:

(1) Issue DoD Instructions, DoD Publications, and one-time directive-type memoranda, consistent with DoD 5025.1-M,<sup>6</sup> that implement acquisition policies and procedures for the functions assigned to the USD(A&T). Instructions to the Military Departments shall be issued through the Secretaries of the Military Departments. Instructions to Unified Combatant Commands shall be communicated through the Chairman of the Joint Chiefs to Staff.

(2) Obtain reports, information, advice, and assistance, consistent with DoD Directive 8910.1,<sup>7</sup> as necessary, in carrying out assigned functions.

<sup>5</sup>Classified document. Not releasable.

<sup>6</sup>See footnote 1 to § 384.4(a)(1).

<sup>7</sup>See footnote 1 to § 384.4(a)(1).

(3) Communicate directly with the heads of the DoD Components. Communications to Commanders of the Unified Combatant Commands shall be transmitted through the Chairman of the Joint Chiefs of Staff.

(4) Establish arrangements for DoD participation in nondefense governmental programs for which the USD(A&T) is assigned primary DoD cognizance.

(5) Communicate with other Government Agencies, representatives of the legislative branch, and members of the public, as appropriate, in carrying out assigned functions.

(6) Coordinate with and exchange information with other DoD officials exercising collateral or related responsibilities.

(7) Exercise the delegations of authority in appendix A to this part.

(f) Nothing in this part limits or otherwise affects delegations of authority by the Secretary of Defense to the Deputy Secretary of Defense.

#### APPENDIX A TO PART 384—DELEGATIONS OF AUTHORITY

I. Pursuant to the authority vested in the Secretary of Defense, and subject to his direction, authority, and control, and in accordance with DoD policies, Directives, and Instructions, the USD(A&T) is hereby delegated authority to exercise, within his assigned responsibilities and functional areas, all authority of the Secretary of Defense derived from statute, Executive order, and interagency agreement, except where specifically limited by statute or Executive order to the Secretary of Defense, to include but not limited to:

1. Exercise all authorities delegated to the Secretary of Defense by the Department of Commerce for the Defense Priorities and Allocations System (DPAS Del. No. 1, as amended). In addition, exercise the authorities delegated to the Secretary of Defense by Executive Order 12742, dated January 8, 1991 (3 CFR, 1991 Comp., p. 309).

2. Act for the Secretary of Defense in the exercise of extraordinary contractual action authority under Pub. L. 85-804, as amended by Pub. L. 93-155 (50 U.S.C. 1431-1435), as amended—an Act to authorize the making, amendment, and modification of contracts to facilitate the national defense, August 28, 1958, in accordance with E.O. 10789, November 14, 1958, as amended, 23 FR 8897, 3 CFR, 1954-1958 Comp., p. 426 and 48 CFR part 50.

3. Make Secretarial determinations, justifications, and approvals on behalf of the Advanced Research Projects Agency, Bal-

listic Missile Defense Organization, Defense Contract Management Command, Defense Logistics Agency, the Defense Nuclear Agency, the On-Site Inspection Agency, the Office of Economic Adjustment, the Defense Acquisition University, and the Defense Systems Management College under title 10, United States Code, with the authority to redelegate to the Heads of those organizations, and other organizations as may be assigned to the USD(A&T), as appropriate.

4. Act for the Secretary of Defense in making determinations and authorizing waivers under the Buy American Act (41 U.S.C. 10a-10d).

5. Act for the Secretary of Defense on delegations of authority to him by the U.S. Trade Representative to waive the prohibition against procurement from certain countries, pursuant to title 3, Pub. L. 96-36, Trade Agreements Act of 1979 (19 U.S.C. 2511 et seq.), and E.O. 12260, December 31, 1980, 46 FR 1653, 3 CFR, 1980 Comp., p. 311.

6. Act for, and exercise the powers of, the Secretary of Defense on requests for waiver of the navigation and vessel inspection laws of the United States under Pub. L. 891, 81st Congress, 2nd Session, December 27, 1950 (64 Stat. 1120), except on those matters that have been delegated by the Secretary of Defense to the Secretary of the Army.

7. Make recommendations to the Department of Energy in connection with facilities for transmission of electric energy and natural gas across borders of the United States, pursuant to the authority given the Secretary of Defense in E.O. 10485, September 3, 1953, 18 FR 5397, 3 CFR, 1949-1953 Comp., p. 70, as amended by E.O. 12038, February 3, 1978, 11 FR 1809, 3 CFR 1943-1948 Comp., p. 508.

8. Exercise all responsibilities and authorities of the Secretary of Defense under 10 U.S.C. 2404, on the acquisition of petroleum.

9. Act for the Secretary of Defense in the implementation of OMB Circular A-109,<sup>1</sup> "Major System Acquisitions," April 5, 1976.

10. Make the determination required by 50 U.S.C. 1512(1), on transportation or testing of any lethal chemical or any biological warfare agent.

11. Make written determinations for conduct of all closed meetings of Federal Advisory Committees under his cognizance as prescribed by section 10(d) of the Act (5 U.S.C. appendix II, 10(d)).

12. Act for the Secretary of Defense in the implementation of OMB Circular A-76,<sup>2</sup> "Performance of Commercial Activities," as revised, August 4, 1983.

<sup>1</sup>Copies may be obtained by written request to EOP Publications, 725 17th Street, NW., New Executive Office Building, Washington, DC 20503.

<sup>2</sup>See footnote 1 to section 9 of this appendix.